



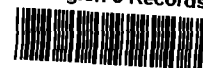
Lois Kimbol
Direct Tel. 215.994.2537

VIA FEDERAL EXPRESS & FACSIMILE

March 30, 2001

Clarence L. Smith, Manager
Federal Site Remediation Section
Division of Remediation Management
Bureau of Land
Illinois Environmental Protection Agency
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EPA Region 5 Records Ctr.



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Re: Eagle Zinc, Hillsboro, Illinois

Dear Mr. Smith:

I am writing in response to your request that our client, T.L. Diamond & Company, Inc. ("T.L. Diamond"), along with the Sherwin-Williams Company ("Sherwin-Williams") and Eagle-Picher Industries, Inc. ("Eagle-Picher"), enter into negotiations with the State of Illinois to perform a Remedial Investigation/Feasibility Study ("RI/FS") under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA") at the Eagle Zinc site located in Hillsboro, Illinois.

T.L. Diamond is willing to participate in the performance of the RI/FS if either Sherwin-Williams or Eagle-Picher or both commit to perform an RI/FS at the site. Such commitment is conditioned upon T.L. Diamond entering into an acceptable allocation arrangement with the other performing parties and a mutually acceptable consent decree with the State of Illinois.

Unfortunately, if neither Sherwin-Williams or Eagle-Picher makes such a commitment, T.L. Diamond is not in the position to be able to undertake this effort alone. From our perspective, requiring T.L. Diamond, the current property owner, to undertake such an action alone to address a site with an industrial history stretching back to at least the early part of the last century is inconsistent with the State of Illinois' "polluter pays" principal of environmental liability. See 415 ILCS 5/58.9 ("In no event may the Agency . . . bring an action . . . to require any person to conduct remedial action . . . beyond the remediation of releases of regulated substances that may be attributed to being proximately caused by such person's act or omission or beyond such person's proportionate degree of responsibility. . ."). As is well known, the process residuals which would be the principal cause of any releases at the site were present prior to the time T.L. Diamond purchased the site. Further, T.L. Diamond has reused or recycled process residuals it had stockpiled on the site and has reduced the overall quantity of residuals in the piles at the site, including from historic piles.

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Clarence L. Smith, Manager
Illinois Environmental Protection Agency
March 30, 2001
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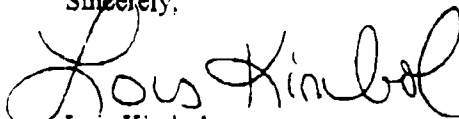
Although most of the historic materials of concern present at the site have no relationship to T.L. Diamond's operations at the facility, over the last several years T.L. Diamond has attempted to avoid unwarranted escalation of this matter. These attempts have required T.L. Diamond to spend considerable amounts of time and money trying to satisfy the State of Illinois' concerns regarding the site. T.L. Diamond proposed to the Illinois Environmental Protection Agency ("IEPA") to address the site through the State's own Tiered Approach to Corrective Action ("TACO") program and proposed to make this agreement enforceable through a consent decree. T. L. Diamond believed then and believes today that this approach would protect human health and the environment and would be cost-effective and feasible.

After the state rejected the use of its own program, at the direction of the IEPA, T.L. Diamond engaged at its sole cost and expense ENVIRON to prepare a scope of work to perform a focused investigation as part of an Engineering Evaluation/Cost Analysis ("EE/CA") under the federal CERCLA program. After ENVIRON had prepared and submitted an outline of that scope of work, that approach was rejected by the IEPA. T.L. Diamond was then told that only a "focused" RI/FS would suffice.

T.L. Diamond is still prepared today to address this site through the state cleanup program or to conduct an EE/CA and would be happy to discuss these possibilities with the agency further. If IEPA believes that neither the TACO or EE/CA approach is feasible for this site, T.L. Diamond would also consider performing an RI/FS on a discrete portion of the site (for example, the stream channel), or conducting a removal action for a portion of the site (again, for example, the stream channel). However, on behalf of our client, we must express again that we believe this site is a classic candidate for a state program clean-up and that insisting on a CERCLA remedial action with all its attendant problems and delays is counter-productive for all concerned: our client, the agency and the environment.

If, after consideration, you believe any of the alternatives may be appropriate for the site, please contact me so we can begin exploring these ideas further. As always, if you have any questions or require anything further please call me.

Sincerely,



Lois Kimbol

LK

cc: Rick Lanham
Greg Richardson, Esq.

Dechert

Document 019019
Eagle Zinc
5/2/2001**FAX TRANSMISSION SHEET**

DATE: March 30, 2001

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Re: Eagle Zinc Company; Hillsboro Illinois.

Please see the attached correspondence.

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IF ALL PAGES ARE NOT RECEIVED, PLEASE CALL 215.994.2876

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